UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,485	06/15/2001	Jay H. Connelly	042390P11866	8135

			EXAMINER
7590	11/30/2006		VAN HANDEL, MICHAEL P

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ART UNIT	PAPER NUMBER
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/882,485	CONNELLY, JAY H.
	Examiner	Art Unit	
	Michael Van Handel	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>27 September 2006</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1 and 81-103* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1, 81-103* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☐ All   b) ☐ Some * c) ☐ None of:

　　　1. ☐ Certified copies of the priority documents have been received.

　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This action is responsive to an Amendment filed 9/27/2006. Claims **1, 81-103** are

pending. Claims **1, 91** are amended. Claims **2-80** are canceled.

Response to Arguments

2.   Applicant's arguments regarding claims **1, 91, 95**, and **99**, filed 9/27/2006, have been

fully considered, but they are not persuasive.

Regarding claims **1, 91, 95**, and **99**, the applicant argues that Payton does not teach or

reasonably suggest prioritizing the content in response to a feedback received from the one or

more clients, wherein the feedback is automatically generated transparent to the one or more

clients based on an amount of content consumed by the one or more clients. The examiner

respectfully disagrees.

Payton discloses a digital information system for delivering virtual on-demand

information over digital transport systems by offloading a portion of the systems' peak

bandwidth requirements to the local subscribers. A local collaborative filtering system

synthesizes the preferences of all of the subscribers and then predicts those items that each

subscriber might like, and therefore request. Each subscriber is provided with a local storage

device for storing, during off-peak hours, those items recommended by the collaborative filtering

system (see Abstract).

A central distribution server merges common requests, places them in a queue based on relative demand, and then broadcasts them to all of the subscribers (col. 3, l. 12-15). The central distribution server includes a subscriber data base 38 that stores a subscriber profile 40 for each of the subscribers. The subscriber profile 40 includes a rating vector (Fig. 6) in which the subscriber has rated each of the items he or she has previously requested (col. 5, l. 6-10). This is accomplished by recording a positive vote when the subscriber uses the item (col. 6, l. 41-42). This meets the limitation of "wherein the feedback is automatically generated transparent to the one or more clients based on an amount of content consumed by the one or more clients," as currently claimed. A collaborative filtering system 42 synthesizes the subscriber profiles 40, predicts which of the available items 36 each subscriber may be interested in or may request, and produces a list 44 of those recommended items for each subscriber. This list comprises a mix of the highest recommended items and a few previously viewed items that the subscriber rated very highly, and is thus likely to request again (col. 5, l. 12-20). A scheduling processor 46 merges the lists 44 of recommended items to prioritize the items 36 from the most to the least frequently recommended and places identifiers for those items in a refresh queue 47 for broadcast over the digital transport system 26 (col. 5, l. 21-26). This meets the limitation of "prioritizing the content in response to a feedback received from the one or more clients," as currently claimed. Thus, the examiner maintains that Payton meets the limitation "prioritizing the content in response to a feedback received from the one or more clients, wherein the feedback is automatically generated transparent to the one or more clients based on an amount of content consumed by the one or more clients," as currently claimed.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims **1, 81, 83, 84-92, 95, 96, 98-101, 103** are rejected under 35 U.S.C. 102(b) as being

anticipated by Payton.

Referring to claims **1, 88, 89, 91, 95, 99**, and **100**, Payton discloses a method/machine-

readable medium/system/apparatus, comprising:

-      broadcasting first content descriptors to one or more clients, the first content

descriptors describing the content for broadcast (col. 3, l. 2-6 & col. 5, l. 6-10);

-      prioritizing the content in response to a feedback received from the one or more

clients (col. 3, l. 13-14 & col. 5, l. 22-24), wherein the feedback is automatically

generated transparent to the one or more clients based on an amount of content

consumed by the one or more clients (col. 6, l. 41-42, 48-50);

-      broadcasting second content descriptors, the second content descriptors describing the

prioritized content for broadcast (col. 3, l. 15-17; col. 6, l. 1-9, l. 67; & col. 7, l. 1-3);

and

-      broadcasting the prioritized content to the one or more clients (col. 3, l. 14-15; col. 5,

l. 24-26; & col. 7, l. 3-7).

Referring to claims **81, 92, 96**, and **101**, Payton discloses the method/machine-readable

medium/system/apparatus of claims 1, 91, 96, and 99, respectively, wherein the feedback

received from the one or more clients is received in a batch (the examiner notes that by sending

the subscriber profile data in response to a periodic trigger, the data is sent in a batch)(col. 7, l.

65-67 & col. 8, l. 1-4).

Referring to claims **83** and **90**, Payton discloses the method of claim 1, further

comprising updating one or more demand data tables at the one or more clients in accordance

with the first and second content descriptors (col. 3, l. 15-17; col. 6, l. 67; & col. 7, l. 1-3, 61-65).

Referring to claim **84**, Payton discloses the method of claim 83, further comprising

selectively storing content in accordance with the one or more demand data tables (col. 6, l. 1-4

& col. 8, l. 26-37).

Referring to claim **85**, Payton discloses the method of claim 84, further comprising

updating the one or more demand data tables by the one or more clients (the examiner notes that

the list of recommended items is updated in response to user ratings/usage. See the citations

noted with regard to claim 1 above).

Referring to claims **86**, **98**, and **103**, Payton discloses the method/system/apparatus of

claims 1, 95, and 99, respectively, further comprising filtering the content received from a server

based on the content the one or more clients are interested in (col. 8, l. 26-36).

Referring to claim **87**, Payton discloses the method of claim 1, wherein the content first

and second content descriptors include metadata to describe the content and the prioritized

content (the examiner notes that data describing the transmitted items is necessary and inherent

to Payton, in order to allow a subscriber interface 58 to display the list of recommended

items)(col. 6, l. 7-9, 26-29, 67 & col. 7, l. 1-3).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims **82, 93, 94, 97, 102** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Payton.

Referring to claims **82, 93, 97,** and **102,** Payton discloses the method/machine-readable

medium/system/apparatus of claims 1, 91, 97, and 99, respectively. Payton further discloses that

subscriber profiles are communicated between the central distribution server and the subscribers

over a low bandwidth back channel (col. 3, l. 2-6 & col. 6, l. 51-58). Payton still further

discloses that the local server 28 sends new subscriber profile data in response to a periodic

trigger (col. 7, l. 65-67 & col. 8, l. 1-4). Payton does not disclose staggering the sending of

feedback to a server by one or more clients, wherein the staggering is based on a last time each

of the one or more clients sent feedback to the server; however, the examiner takes Official

Notice that it is well known within the prior art to stagger the sending of information across a

network to minimize network congestion. It would have been obvious to one of ordinary skill in

the art at the time that the invention was made to modify Payton's method of periodically

sending subscriber profile data across a low bandwidth back channel to include staggering the

sending of information, such as that taught by the prior art in order to minimize network

congestion.

Referring to claim **94**, Payton discloses that the one or more clients filter the content received from the server based on the content the one or more clients are interested in (col. 8, l. 26-36).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH

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